

WETLANDS COUNCIL

MINUTES

January 14, 2003

The Wetlands Council met on Tuesday, January 14, 2003, at the Dept. of Environmental Services, 6 Hazen Dr., Concord, NH

Attendees:

Council Members: Brian Fowler, Camilla Lockwood, Glen Normandeau, and Bruce Schwaegler

Designees: Sharon Champagne, Ted Diers, Brent Edmonds, Bill Ingham Jr., E. William Roy and Thomas Sloan

Absentee:

Mike Dannehy

Unfilled Positions:

NH Certified Wetlands Scientists Representative and Municipal Official

The meeting was called to order by Chairman Brian Fowler at 9:00 a.m. Chairman Fowler then called a short recess to allow the council members to review new materials handed out prior to the meeting. The meeting was reconvened at 9:10 a.m.

1. Approval of Minutes of November 12, 2002 Meeting

A correction was noted by Mr. Ingham to note that Mr. Ingham and Mr. Roy had recused themselves from the discussion of Appeal Docket No. 00-19 WtC (Conservation Law Foundation) Keene By-pass. A motion was made by Mr. Schwaegler to accept the minutes of November 11, 2002 as amended. Mr. Ingham seconded the motion. The motion was passed with one abstention.

2. Status of Appeals

- a. Docket #00-19 WtC, (Conservation Law Foundation) Keene Bypass Appeal
Mr. Scalfani advised that there are no changes since the Council's November 12, 2002 meeting wherein it was noted that the Supreme Court has accepted the appeal by the Department of Transportation. No date has been set by the Court.
- b. Docket #01-19 WtC, WB #2001-00196, George Whalley, Lake Winnepesaukee, Gilford
Mr. Scalfani advised that there are no changes since the Council's November 12, 2002 meeting. Settlement discussions between the parties continue.

- c. Docket #02-06 WtC, WB #1999-001524, Gorham Supermarket, LLC and JC Investors, J&M Lumber & Construction Inc., Gorham, NH, Permittee
This appeal was summarily dismissed by the Council on November 12, 2002. It was ruled that the original Request for Reconsideration was not timely filed. A Motion for Reconsideration was filed on behalf of JC Investors and Gorham Supermarket, and an Objection to the Motion for Consideration was filed by Attorney Jack Crisp.

A motion was made by Mr. Schwaegler to deny the Motion for Reconsideration and reaffirm the Council's decision to dismiss the appeal. Mr. Edmonds seconded the motion and the vote was unanimous.

- d. Docket #02-10/11 WtC, WB#2000-2714, Appeals of Leslie J. Ludtke, Gordon R. Blakeney and others – City of Concord, Langley Parkway, Permittee
Mr. Ingham recused himself from the discussion of this appeal. A prehearing conference was held on January 3, 2003. Chairman Fowler conducted an in-depth review of the proceedings and presented a draft prehearing conference order for consideration by the Council.

A motion was made by Mr. Normandeau to accept Chairman Fowler's draft Prehearing Conference Order with certain procedural amendments. Mr. Edmonds seconded the motion. A vote was tabled pending consultation with Council's attorney.

- e. Docket No. 02-13 WtC, WB 2002-00348, John P. and Carole Hoag et al., Appeal of (Boathouse) Permit of Timothy and Allison Vaill – Moultonborough – Squam Lake
This is an appeal of a permit for a boathouse on Squam Lake which has been accepted by the Council. A prehearing conference date has yet to be set.

- f. Docket No. 02-15 WtC, WB 2000-00131 (Conservation Law Foundation) NHDOT, Troy Bypass
Mr. Roy and Mr. Ingham recused themselves from the discussion of this case. An appeal of the Bureau's decision granting a permit relative to the proposed Route 12 bypass of Troy, NH was properly and timely filed by the Conservation Law Foundation on December 12, 2002.

A motion was made by Ms. Lockwood and seconded by Mr. Diers to accept the appeal. The vote was unanimous.

- g. Docket No. 02-16 WtC, WB 2002-01019 (Donald S. Thompson)
This appeal was filed timely but not in accordance with Council rules. A letter has been sent to Mr. Thompson which allows Mr. Thompson until February 3, 2003 to file an amended appeal.

- h. Docket No. 02-17 WtC, WB 2002-01019 (Timothy L. Whiting)
This appeal was filed timely but not in accordance with Council rules. A letter was sent to Mr. Whiting setting forth a date of February 3, 2003 to file an amended appeal.
- i. Docket No. 02-18 WtC, WB 2002-01019 (Marie E. Pino)
This appeal was not timely filed nor was it in accordance with Council rules. A letter will be sent to Ms. Pino advising her of these facts. She will be advised further that she may seek to join in related appeals #02-16 or #02-17 to seek relief.

A motion was made by Ms. Lockwood to summarily dismiss the appeal. Ms. Champagne seconded the motion and the vote was unanimous.

At 10:00 a.m. a recess was called by Chairman Fowler.

The meeting reconvened at 10:10 a.m.

- Chairman Fowler encouraged Council members to attend the Judicial Training Program for State Agencies sponsored by the Office of the Attorney General on February 7 and 14 if they have not previously attended similar sessions. Specific information was previously mailed to Council Members.

3. Permit-by-Notification Rules

A draft of proposed rule amendments was passed out and reviewed with the Council by Collis Adams, the Wetlands Bureau Administrator. The intent of the rule revisions is to identify projects with such minimal environmental impact that they can be handled through a pure notification process. The proposed rules were discussed in-depth. Mr. Adams will prepare a revised draft incorporating the Council's input and present it to the Council prior to public hearing and the continuation of the formal rulemaking process.

4. Enforcement Strategies and WETCARP

Mary-Ann Tilton, the Wetlands Bureau Senior Enforcement Officer, reviewed with the Council new enforcement strategies aimed at reducing the backlog of investigations of reported violations and at screening and prioritizing new complaints according to environmental impact. She also distributed and briefly reviewed the WETCARP draft document, which was developed as a Bureau policy for addressing violations of NH wetlands laws and regulations. This item will be put on the agenda for a future meeting for comment by the Council

A wetlands fee increase will be addressed at a future Council meeting.

5. Other Business

The annual election of a Chairman in accordance with RSA 21-O:5-a,I(g) was discussed.

A motion was made by Mr. Normandeau to re-elect Brian Fowler as Council Chairman. Ms. Lockwood seconded the motion and the vote was unanimous.

6. Next Meeting

The next meeting is tentatively scheduled for February 11, 2003.

A recess was called at 11:30 to go into Closed Session with Anne Edwards, Esq., of the NH Department of Justice.

The meeting was reconvened at 12:50 p.m.

Docket #02-10/11 WtC, WB#2000-2714, Appeals of Leslie J. Ludtke, Gordon R. Blakeney and others – City of Concord, Langley Parkway, Permittee

Mr. Ingham recused himself from discussion of this appeal.

A motion by Mr. Normandeau and seconded by Mr. Edmonds is on the floor to accept the prehearing conference order as amended to retain the rulings made at the prehearing conference and to direct the appellants to provide the Council with evidence of standing to be before the Council on this appeal within 10 days from the date of the prehearing conference order. The applicants will have 5 days after the receipt of the pleadings from the appellants to respond to the Council. The Council will take up the issue of standing based on the pleadings at the February 11, 2003 meeting. If the Council is persuaded that standing has been satisfied, a hearing on the matter will go forward on March 11, 2003. If the appellants fail on standing, the Council will take such action as is appropriate at that time. The vote was unanimous.

7. Adjournment

A motion to adjourn was made by Mr. Sloan. Ms. Lockwood seconded the motion and the vote was unanimous.

The meeting adjourned at approximately 1:00 p.m.